

Species I, Fig. 4;

Species II, Fig. 8;

Species III, Fig. 9;

Species IV, Fig. 12;

Species V, Fig. 13; and

Species VI, Fig. 17

It should be noted, prior to this Election of Species requirement, the present application has undergone extensive prosecution, all being handled by the same Examiner. Prior to the instant requirement for Election, there have been six substantive office actions on the merits, one request for a pre-appeal conference and one decision following that pre-appeal conference. It is respectfully submitted, the Examiner has demonstrated a clear understanding of Applicant's invention and the subject matter defined by Applicant's claims; and has found no difficulty in examining all of claims 1-33. Indeed, the extensive prosecution of this application evidences a clear lack of burden on the Office in considering all of the claims in this application.

It is believed the present requirement for Election fails to comply with 37 CFR 1.146, which explains that this requirement might be proper on the first Action on the merits, but not necessarily after six such actions. Nevertheless, Applicant notes the claims read on Figs. 4, 8, 9, 12, 13 and 17 as follows;

Claims 1, 2, 4-16 and 18-33 read on Fig. 4.

Claims 1-33 read on Fig. 8.

Claims 1, 2, 4-16 and 18-33 read on Fig. 9.

Claims 1-33 read on Fig. 12.

Claims 1, 2, 4-16 and 18-33 read on Fig. 13.

Claims 1-33 read on Fig. 17.

From the foregoing, it is seen that claims 1, 2, 4-16 and 18-33 are generic because they read on all of the drawing figures enumerated by the Examiner.

Applicant elects, with traverse, for the reasons discussed below, Species IV, on which claims 1-33 read.

Claims 1, 2, 4-16 and 18-33 are generic. Accordingly, if any of these generic claims eventually is allowed, it is recognized that the instant requirement for an election of species will be withdrawn; and all claims which include the limitations of the generic claims, irrespective of the particular species on which those claims read, likewise will be allowed.

Inasmuch as all of the claims present in this application are readable on the elected species, it is submitted that a search for the invention defined by the claims of Species IV has already been conducted, as evidenced by the six prior office actions. Furthermore, even if these earlier searches are supplemented, such a supplemental search will require a search that encompasses the claims of all of the other Species and, thus, the claims covering all species will be searched yet again. If the present requirement for an election of species is maintained and if no generic claim ultimately it is allowed, the logical result will be the filing of divisional applications to include the claims that read on the non-elected species. Of course, this will mean that the examination of such claims will be delayed; but nevertheless repeated -- all claims already have been searched. However, since any future search for the claims included in those divisional applications will overlap with and, in all probability, be identical to the search that has already been conducted on the Species IV claims elected herein, the primary effort needed to examine all applications will be repeated. Furthermore, it is likely that the same Examiner will

be in charge of the divisional applications; but in light of the delay between the prosecution of the present application and that of the divisional applications, the Examiner will have to conduct a duplicate, redundant search at a later time. Alternatively, if a different Examiner is assigned to the divisional applications, a significant loss of PTO efficiency will result in his examination of those divisional cases. After all, the present Examiner will be the individual in the best position to examine all applications and he will be fully familiar with the subject matter of those divisional applications.

Therefore, since the only logical outcome of the present requirement for an election of species would be to delay the examination of the claims that read on Species I-III and V-VI, resulting in inefficiencies on the part of the Office and unnecessary expenditures by applicant, and since a single search can be and, in fact, already has been done for all claims without any burden on the Office, it is respectfully requested that this requirement for an election of species be withdrawn.

Applicant's representative reiterates that six substantive office actions already have issued on this application, thus evidencing the lack of any burden on the Examiner to consider all of the claims. To now require an election of species is an unnecessary and unwarranted burden not only on Applicant but on the Office.

Therefore, it is respectfully requested that the election of Species requirement of June 24, 2008 be withdrawn, that the examination of all claims present in this application continue, and that this application now be found in condition for allowance.

Applicant reserves his right to file one or more divisional applications, if necessary, to proceed with the examination of the non-elected claims.

An early examination on the merits of the claims of this application are respectfully solicited.

Respectfully submitted,

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By:

A handwritten signature in black ink, appearing to read "William S. Frommer", is written over the printed name.

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